

[First Reprint]

ASSEMBLY, No. 3786

STATE OF NEW JERSEY

211th LEGISLATURE

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Sponsored by:

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**Assemblymen Rumpf, Bramnick, Diegnan, Azzolina, Assemblywoman
Previte, Assemblyman Conaway, Senators Sarlo and Buono**

SYNOPSIS

Expands information which provider of electronic communication or remote computing services must disclose to authorized law enforcement agency.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on March 10, 2005, with amendments.

(Sponsorship Updated As Of: 12/16/2005)

1 AN ACT concerning information to be disclosed to law enforcement by
2 providers of electronic communication or remote computing
3 services and amending P.L.1993, c.29.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 23 of P.L.1993, c.29 (C.2A:156A-29) is amended to
9 read as follows:

10 23. Requirements for access.

11 a. A law enforcement agency, but no other governmental entity,
12 may require the disclosure by a provider of electronic communication
13 service or remote computing service of the contents of an electronic
14 communication without notice to the subscriber or the customer if the
15 law enforcement agency obtains a warrant.

16 b. Except as provided in subsection c. of this section, a provider of
17 electronic communication service or remote computing service may
18 disclose a record or other information pertaining to a subscriber or
19 customer of the service to any person other than a governmental
20 entity. This subsection shall not apply to the contents covered by
21 subsection a. of this section.

22 c. A provider of electronic communication service or remote
23 computing service shall disclose a record or other information
24 pertaining to a subscriber or customer of the service, other than
25 contents covered by subsections a. and f. of this section, to a law
26 enforcement agency under the following circumstances:

- 27 (1) the law enforcement agency has obtained a warrant;
28 (2) the law enforcement agency has obtained the consent of the
29 subscriber or customer to the disclosure; or
30 (3) the law enforcement agency has obtained a court order for such
31 disclosure under subsection e. of this section.

32 A law enforcement agency receiving records or information
33 pursuant to this subsection is not required to provide notice to the
34 customer or subscriber.

35 d. Notwithstanding any other provision of law to the contrary, no
36 service provider, its officers, employees, agents or other specified
37 persons shall be liable in any civil action for damages as a result of
38 providing information, facilities or assistance in accordance with the
39 terms of a court order or warrant under this section.

40 e. A court order for disclosure under subsection b. or c. may be
41 issued by a judge of competent jurisdiction and shall issue only if the
42 law enforcement agency offers specific and articulable facts showing

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted March 10, 2005.

1 that there are reasonable grounds to believe that the record or other
2 information pertaining to a subscriber or customer of an electronic
3 communication service or remote computing service is relevant and
4 material to an ongoing criminal investigation. A judge who has issued
5 an order pursuant to this section, on a motion made promptly by the
6 service provider, may quash or modify such order, if the information
7 or records requested are unusually voluminous in nature or compliance
8 with such order otherwise would cause an undue burden on such
9 provider.

10 f. A provider of electronic communication service or remote
11 computing service shall disclose to a law enforcement agency the:

12 (1) name[,] ;

13 (2) address[,] ;

14 (3) telephone or instrument number or other subscriber number or
15 identity, [and] including any temporarily assigned network address;

16 (4) local and long distance telephone connection records or records
17 of session times and durations;

18 (5) length of service [provided to a] , including start date, and
19 types of services utilized; and

20 (6) means and source of payment for such service, including any
21 credit card or bank account number.

22 of a subscriber to or customer of such service [and the types of
23 services the subscriber or customer utilized,] when the law
24 enforcement [entity] agency obtains a grand jury or trial subpoena.

25 g. Upon the request of a law enforcement agency, a provider of
26 wire or electronic communication service or a remote computing
27 service shall take all necessary steps to preserve, for a period of 90
28 days, records and other evidence in its possession pending the issuance
29 of a ¹[warrant] court order or other legal process¹. The preservation
30 period shall be extended for an additional 90 days upon the request of
31 the law enforcement agency.

32 (cf: P.L.1999, c.151, s.6)

33
34 2. This act shall take effect on the first day of the fourth month
35 after enactment.